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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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CARL J. KUNASEK
CHAIRMAN

JIM IRVIN
COMMISSIONER

WILLIAM A. MUNDELL
COMMISSIONER

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AT CORP COMMISSION
SECRET CONTROL

W-01303A

Docket Nos. T-01954B-00-0146, T-02755A-00-0015, ~~T-03214A-00-0192~~
T-01954B-99-0737, T-01954B-99-0718, T-01954B-99-0598, E-01032C-99-
0630, E-01032C-98-0474; (& Cap Rock E-01032A-00-0163 etc.)

**MARVIN LUSTIGER'S REPLY TO CITIZENS' OBJECTION TO HIS MOTION TO
INTERVENE IN ADDITIONAL CASES**

First, permit me to tidy up a loose end in the matter of
Citizens/Cap Rock, Docket #E-01032A-00-0163, etc. In that matter,
I objected on May 27, 2000, to the filing by Citizens of a bare
Agreement between it and Cap Rock. The bare Agreement was a
picture frame without a picture. Citizens had refused to provide
the explanatory schedules and exhibits unless it first received
vows of confidentiality. Immediately following my objection,
I was told by Cap Rock's attorney that those schedules and
exhibits would be provided without a Protective Agreement, and
they were. I do not know the reason for the reconsideration by
the Joint Applicants of their position. My Objection, which is
now moot and is withdrawn, may or may not have been a factor.

With respect to Citizens' new Objection to my intervention
in several electric and telephone cases, please note that
Citizens' Objection made no reference to my requested intervention
in T-03214A-00-0192. For reasons not disclosed by Citizens, my
intervention in that Docket is thus unopposed.

I am deleting T-03214A-00-0147 from my intervention request,
because that Docket apparently has no ties to Mohave County.

The Commission will note that Citizens' new Objection is

1 based, virtually word for word, on the same erroneous assertions
2 and arguments as was Citizens' Objection to my intervention in
3 the Cap Rock matter. The Hearing Officer has already, in the
4 Cap Rock matter, ruled on those same erroneous assertions.

5 Citizens has gratuitously appointed itself gatekeeper in
6 these Commission matters. It has demanded that no entity named
7 Lustiger may intervene, if he applies after the opening gun or if
8 he isn't a Citizens' customer. Entities whose names are not
9 Lustiger, but who also are not customers and who also apply after
10 the opening gun, may intervene without objection from Citizens.

11 Out of thin air, with no basis in law or precedent, Citizens
12 asserts that the "initial threshold" for an intervenor is to be
13 a Citizens' customer. Never mind that few of the parties and
14 intervenors to these Dockets are Citizens' customers. Citizens,
15 having been a losing Defendant in lawsuits with me, knows full
16 well that a property owner, regardless of whether he is a
17 customer, can be severely affected by a utility company's poles
18 and lines across his lands, and by improper acts performed by
19 the company allegedly under authority of its CC&N.

20 Citizens has not denied, nor could it, that it knows the
21 legal description of each and all of my thousands of acres of
22 private lands, much of it subdivided, in Citizens' certificated
23 area. Few if any Arizona citizens have more to protect than I do
24 in these regulatory matters, and it is my constitutional right to
25 do so. I have special knowledge and special concerns. It would
26 be risky, not to protect myself, and it is both unlawful and
27 unseemly to try to prevent me from so doing.

28 Citizens suggests that the Staff and RUCO could adequately

1 represent my interests. The ability of those entities is
2 unchallenged, and they do act in the general interest of Arizona
3 citizens. However, the Staff and RUCO do not and cannot
4 specifically represent my interests, nor do they have knowledge
5 of the history, nature and uses of my specific tracts of land.
6 Citizens certainly demands the right to push its interests by
7 using its own hand-picked employee/lawyer to represent it.
8 I am entitled to no less, and this layman picks himself.

9 For Citizens to assert, as it does in a footnote, that it
10 "doubts" the value of my lands will be affected by these matters,
11 is mindboggling, especially considering the sums Citizens has been
12 required to pay in the past, after its acts greatly and adversely
13 affected the value of my lands.

14 In its Objection, Citizens either misstates or ignores the
15 record. It says that whereas I asserted in the Cap Rock matter
16 that the value of my assets will be affected by the proceeding,
17 "Mr. Lustiger has made no such assertion in his (pending) motion."

18 The record shows that my pending Motion to Intervene
19 expressly states that the reasons for the intervention are "the
20 same" as set forth in the earlier (that is, Cap Rock) filings.

21 Further, my pending Motion also references Debbi Person's
22 letter of April 11, 2000, to Mr. Marks. The attachment to
23 Debbi Person's letter clearly sets forth the very assertion
24 that Citizens says is lacking. It appears Citizens objected
25 to my pending Motion to Intervene, without even reading it.

26 Citizens also incorrectly asserts in a footnote, that it had
27 not failed to timely object to the requested interventions listed
28 in Debbi Person's letter. Debbi Person's letter, dated April 11,

1 informed Citizens that I had requested to intervene in many cases,
2 which she listed. She asked Citizens to file any objection by
3 April 21. Except with respect to the Cap Rock matter, Citizens
4 did not object until June 5. So Citizens did fail to timely
5 object to all other cases listed in Debbie Person's letter.

6 I never withdrew any request for intervention in Mohave
7 County telephone and electric cases. This was clearly set forth
8 in my April 20 Application to Intervene in the Cap Rock matter.
9 Then on May 27, because I had not received decisions on the
10 other cases, and after receiving file-history guidance from
11 Commission employees, I filed a new Motion to Intervene. This
12 did not erase the history of Citizens' failure weeks earlier,
13 to timely respond to Debbi Person's letter.

14 As to Citizens' concern that I had requested intervention
15 after the starting gun in some cases, it has been said that
16 in regulatory hearings, as in war, one can join in belatedly
17 and reluctantly, when one comes to understand his interests
18 are in jeopardy. America joined each World War years after
19 each began. Nonetheless, America played an important role.

20 It is proper that I advise the Commission and the parties
21 that ten days from now, as a medical necessity, I start a seven
22 weeks' absence from Arizona. This will separate me from the
23 summer heat, and will also separate me almost entirely from
24 newspapers, TV, radio, telephone, mail of all types, and computer.
25 I am a retired layman, without any employees to pinch-hit when
26 I am away. During my hibernation, I shall be examining the
27 documents already produced.

28 I do not ask that as to any Docket, a hearing be delayed

1 to accommodate my needs. If any matters are heard or closed
2 while I am unavailable, so be it. When I return, I will catch
3 up in those cases where it can be done.

4 I shall now conclude this Reply by citing from my filings in
5 the Cap Rock matter, a few small portions which are relevant now.

6
7 "I own thousands of acres of private, deeded properties in
8 Arizona. This includes vacant lands, subdivided lots, and
9 improved property. Most are in Mohave County, in the certificated
10 areas served by Citizens Utilities Company. I have owned the
11 properties for over forty years, that is, for half the time since
12 Arizona became a state. I have also, for the same length of time,
13 known Citizens and its methods of doing business.

14 I have come to intervene here because the use and value
15 of my properties, and my wallet, will be affected by Decisions
16 or Orders of the Commission in this matter. Therefore, it is
17 necessary and proper that I intervene.

18 Citizens, having been a losing defendant in the lawsuits
19 I brought against it on account of its repeated land grabs and
20 other unlawful conduct, knows the legal description of every one
21 of the thousands of acres of lands I own in Mohave County. All
22 these lands are under Citizens' certificate. Citizens knows that
23 much of my lands have been subdivided, that many lots have been
24 sold, and that homes and businesses have been built. The present
25 buyers and future buyers are or will be electric (and telephone)
26 customers.

27 If a (utility) company provides (poor) service at high
28 rates, I will have difficulty in collecting monies due me on

1 lots already sold, and I will have difficulty selling additional
2 lots. The value of my assets will be affected by the Orders
3 in these proceedings.

4 It is doubtful that there is a person in Arizona who will be
5 more affected by these proceedings. Nevertheless, Citizens
6 actually suggests in its response, that I must demonstrate my
7 interests would not be adequately represented by the Staff
8 or the RUCO. I respect both the Staff and the RUCO, and I thank
9 Citizens for its suggestion, but I will represent and protect
10 my interests.

11 Strangely enough, Citizens did not make the same demands,
12 when the Arizona Utility Investors Association applied to
13 intervene. That Association consists of owners of stock in
14 various utility companies. The same as any other owner of assets,
15 the members of that Association have a right to protect their
16 investment. Some of those members have invested in Citizens,
17 and quite properly they want to enhance the prospects that
18 their stock will gain as a result of Orders in this proceeding.

19 The Association should not have been asked, and was not
20 asked, if its members were customers of Citizens, or even if
21 its members owned any property in the affected areas. No, the
22 organization indicated its members had a financial interest in
23 these proceedings. That should have been enough, and it was
24 enough. Citizens did not demand that they be barred because the
25 Staff would look out for their interests.

26 Citizens' objection to my intervention is frivolous. It has
27 no legal merit whatever. It makes demands that are contrary to
28 precedent. It should be denied."

1 RESPECTFULLY SUBMITTED this 8th day of June, 2000.

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